

EXHIBIT B

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK
CENTRAL ISLIP DIVISION**

APTIVE ENVIRONMENTAL, LLC

§

Plaintiff,

§

vs.

§

NO. 1:18-cv-_____

**VILLAGE OF EAST ROCKAWAY,
NEW YORK**

§

Defendant.

§

STATE OF NEW YORK

§

COUNTY OF SUFFOLK

§

BEFORE ME, the undersigned notary public, on this day personally appeared Pierson (Pierce) Baldwin, who, after being duly sworn, stated under oath as follows:

1. My name is Pierson (Pierce) Baldwin. I am over twenty-one (21) years of age, I have never been convicted of a felony, and I am competent to make this affidavit.

2. I am currently the Branch Manager of the Long Island office of Aptive Environmental, LLC (“Aptive”). Based on my service in this capacity, I have personal knowledge of all facts contained in this affidavit, and those facts are true and correct.

3. Aptive is a large pest control services company with offices throughout the country. Aptive’s market includes cities throughout the state of New York, including the Village of Southampton. Aptive’s sales are made almost exclusively through door-to-door solicitation. Aptive’s unique business model is predicated upon establishing a personal and trusting relationship with its customers, getting to know their homes and their individual needs so Aptive can customize its services. The residential assessment and customer interaction often require more than 30 minutes at a single residence. Years of business experience have confirmed to Aptive that other

AFFIDAVIT OF PIERSON BALDWIN

forms of less personal marketing, including phone solicitation, email campaigns, and web advertisements, are ineffective for establishing or maintaining this necessary personal relationship with its customers.

4. Prior to hiring its sales representatives, Aptive does a criminal history, background check, and drug test of each applicant for a position. Each Aptive salesperson intending to solicit in New York has submitted to these checks through the third-party provider SimpliVerified. The SimpliVerified service provides full criminal histories (including misdemeanors) at the federal, state, and local levels. Aptive reviews the SimpliVerified data on each salesperson prior to hiring.

5. Most of Aptive's salespeople travel in multiple states to perform their sales activities. And in New York, a typical Aptive salesperson might plan to sell in twenty or more municipalities. Each of these New York municipalities regulates door-to-door solicitation. Nearly every New York municipality where Aptive does business or has applied to do business requires individual solicitor licenses.

6. A single Aptive salesperson faces, on average, more than twenty different solicitation licensing processes. These ordinances typically require extensive disclosures and compliance efforts by each prospective solicitor, including criminal background checks, letters of reference (some requiring character references from local residents), fingerprinting, hundreds of dollars in fees, prolonged waiting periods, personal examinations by police, indefinite processing times, questions about past jobs and states of residence, and other burdensome application components. Southampton's ordinance requires fingerprinting, multiple sets of information, and high fees.

7. Aptive requires its sales representatives to apply for, and receive, solicitation licenses in any municipality that has a licensing law.

8. Aptive intends to solicit within the Village during its 2019 sales season. Prior to soliciting, counsel for Aptive reviewed the Ordinance and relevant case law on commercial speech restrictions. This review revealed the existence of the unconstitutional Curfew and Bond.

9. In my capacity as Branch Manager, I have personally supervised the solicitor licensing application process in more than 20 New York municipalities. I am familiar with the standard, reasonable expectations for applying for solicitor licenses in the State of New York.

10. The Village Code also requires every applicant for a solicitation license to pay a surety bond in the amount of \$2,500.000 with surety given be a recognized insurance carrier. The cost of soliciting is one factor that keeps Aptive from applying for licenses and soliciting in the Village.

11. Aptive has suffered—and continues to suffer—irreparable harm from the bond fee, the 5:00 p.m. solicitation curfew. The curfew prohibits Aptive from soliciting during the time that more than half of its sales take place – between 5:00 p.m. and 9:00 p.m. In fact, Aptive loses thousands of dollars in revenue each day it is prohibited from soliciting between 5:00 p.m. and 9:00 p.m. in the Village.

12. Accumulated over the March to September selling season, Aptive's damages from the 5:00 p.m. and the high bond amount, in the Village amount to tens of thousands of dollars in lost revenue from Southampton. Thousands of Long Island households have already purchased Aptive services this year. This summer alone, Aptive expects to make more than 5,000 sales on Long Island. Each sale generates an average of approximately \$500 for Aptive. In all, Aptive expects to make more than \$2.5 million through door-to-door solicitation in the Long Island territory this year.

13. I declare under penalty of perjury that the foregoing is true and correct.

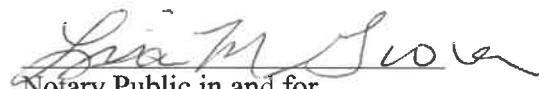
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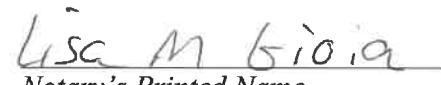
FURTHER AFFIANT SAYETH NAUGHT

Executed on June 6th, 2019, in Suffolk County, State of New York


PIERSON BALDWIN

SWORN TO AND SUBSCRIBED before me on the 6th day of June,


Lisa M. Gioia
Notary Public in and for
the State of New York


Lisa M. Gioia
Notary's Printed Name

My commission expires:

05/27/2020

